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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MM Docket No. 92-266

EX-117-70

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In the Matter of)
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Implementation of Sections of the)
Cable Television Consumer Protection)
and Competition Act of 1992)
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RATE REGULATION)
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TO: The Commission

COMMENTS OF THE CITY OF CHARLOTTE & MECKLENBURG COUNTY, NORTH CAROLINA

The City of Charlotte and Mecklenburg County (Charlotte-Mecklenburg) herein submit reply comments in the above-captioned proceeding. The Federal Communications Commission (FCC) seeks comments on proposed rules to implement Sections 623, 612 and 622(c) of the Communications Act of 1934, as amended by Sections 3, 9 and 14 of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act).

Charlotte-Mecklenburg strongly supports comments filed by the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties and the United States Conference of Mayors (collectively the "Local Governments") in this proceeding. Charlotte-Mecklenburg agrees with the Local Governments that the main goal of the FCC in implementing the above provisions in the 1992 Cable Act is to ensure that "consumer interests are protected in the receipt of cable services", as per Section 2(b)(4), 1992 Cable Act. The FCC should adopt regulations implementing Sections 623, 612 and 622(c) that enable Local Governments to work cooperatively with the FCC to ensure that cable subscribers receive the protection intended by the 1992 Cable Act. Such regulations should "seek to reduce the administrative burdens on subscribers, cable operators, franchising authorities, and the Commission", as per Section 623(b)(2)(A).

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Among other comments and proposals by the Local Governments, Charlotte-Mecklenburg supports the following comments or proposals:

1. Current cable rates must be reduced if necessary to ensure that they are "reasonable", as required by Section 623. Since the Cable Act of 1984 deregulation, cable rates in Charlotte-Mecklenburg increased at percentages bearing no semblance to consumer price increases, but instead amounts arbitrarily selected by our cable operators to meet internal corporate revenue streams. Such arbitrary increases should be factored into any discussion of "reasonable" rates. The following history of rates for the most popular tier of cable service for two of the three cable operators which service Charlotte-Mecklenburg demonstrate the types of such increases which were implemented:

<u>YEAR</u>	<u>COMPANY</u>	<u>RATE</u>	<u>% INCREASE</u>
1985	ATC - Cablevision of Charlotte	\$ 13.45	Base Year
	Newhouse - Vision Cable of NC	\$ 11.50	Base Year
1986	ATC - Cablevision of Charlotte	\$ 13.90	3.4%
	Newhouse - Vision Cable of NC	\$ 12.00	4.4%
1987	ATC - Cablevision of Charlotte	\$ 14.90	7.2%
	Newhouse - Vision Cable of NC	\$ 12.00	0.0%
1988	ATC - Cablevision of Charlotte	\$ 14.49	0.0%
	Newhouse - Vision Cable of NC	\$ 13.00	8.3%
1989	ATC - Cablevision of Charlotte	\$ 16.25	12.0%
	Newhouse - Vision Cable of NC	\$ 14.00	7.9%
1990	ATC - Cablevision of Charlotte	\$ 18.60	14.5%
	Newhouse - Vision Cable of NC	\$ 15.50	10.7%
1991	ATC - Cablevision of Charlotte	\$ 20.20	8.6%
	Newhouse - Vision Cable of NC	\$ 17.00	9.7%
1992	ATC - Cablevision of Charlotte	\$ 22.25	10.2%
	Newhouse - Vision Cable of NC	\$ 18.50	8.8%
1993	TWE - Cablevision of Charlotte	\$ 23.37 *	5.0%
	Newhouse - Vision Cable of NC	Not yet announced, increase 4/93	

(* Cablevision created two distinct tiers of service effective 2/93. Subscribers must buy-through the \$ 10.45, 12-channel "basic" service tier to get the 39-channel "standard" service tier which Cablevision indicates is \$12.92, for a total cost of \$23.37. Subscribers must also have "standard" tier in order to buy "premium" or "pay-per-view" services.)

2. The FCC should permit local governments flexibility in establishing procedures and regulations for reviewing local basic cable rates, so long as such procedures and regulations are not irreconcilable with the certification requirements in Section 623(a)(3).
3. Section 623(b)(1) authorizes the FCC to regulate basic cable rates in franchise areas that are not certified to regulate rates. At a minimum, the FCC should regulate rates in situations where a franchising authority requests the FCC to regulate rates.
4. In order to reduce administrative burdens on the FCC, the FCC should permit franchising authorities to initially review complaints that the rates for cable programming services are unreasonable under Section 623(c).
5. Given Congress' presumption that most cable operators are not subject to effective competition, the burden should be on cable operators to demonstrate that they are subject to effective competition. Franchising authorities should not bear the burden of demonstrating that cable operators are not subject to effective competition as a condition of certification to regulate rates.
6. Section 623 preempts any state law that prohibits cable rate regulations, and franchising authorities may certify that they have the "legal authority" to regulate rates pursuant to home rule charters, their police powers, their right to regulate rights-of-way, or any other state or local provision which grants a franchising authority the right to regulate a cable system. In addition, Section 623(a)(2)(A) provides franchising authorities an independent source of power to regulate rates, regardless of any contrary state law provision. A franchising authority's right to regulate rates under Section 623 also includes the right to order rate reductions if necessary to ensure that a cable operator receives only a "reasonable" rate for basic cable service.

7. The FCC should establish a "benchmark", rather than a "cost-of-service", model for regulating the rates for basic cable service and cable programming services. Such a method of regulation is consistent with Congress' desire that the FCC create a formula that is uncomplicated to implement, administer and enforce.
8. The rates for any installation and equipment used to receive basic cable service, regardless of whether such installation or equipment is also used to received any other programming service, should be based on "actual cost" pursuant to Section 623(b)(3) -- thus subject to regulation by the FCC pursuant to Section 623(c).

In Charlotte-Mecklenburg, Newhouse-owned Vision Cable charges for what they call "remote control service" instead of "remote control equipment". Therefore, subscribers who chose to purchase their own remote control units from another source still have to pay Vision Cable \$3.00 per converter each month in order to keep the remote "service" activated in each converter in their home. Obviously, it is not actually costing Vision Cable \$3.00 per month/per converter to keep this service activated since it simply involves the computer addressing of the converter units.

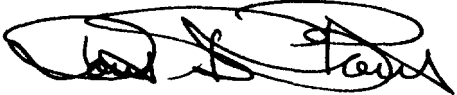
9. Charlotte-Mecklenburg agrees with the FCC's conclusion that certification should be pursuant to a standardized and simple certification form similar to that located at Appendix D to the Notice of Proposed Rulemaking, but such form should be modified to eliminate the burden on local governments to demonstrate that a cable operator is not subject to effective competition.
10. The FCC's rules implementing the subscriber bill itemization provision, Section 622(c), should allow a cable operator to itemize only direct costs attributable to franchise fees, PEG requirements or other assessments, and should require that a cable operator who chooses

to itemize costs disclose to subscribers other costs reflected in the bill, such as a cable operator's profits, payments on a cable operator's debt service, or any other items a franchising authority believes are appropriate to itemize in order to accurately reflect the costs in a subscriber's bill. In calculating franchise cost pursuant to Section 623(b)(4) that a cable operator may itemize on bills pursuant to Section 622(c), the FCC should make clear that such franchise costs are limited only to costs directly attributable to public, educational and governmental access requirements in a franchise.

11. The FCC should permit franchising authorities that wish to do so to mediate leased access disputes, and to enforce the FCC's leased access rules. Such local enforcement would be in addition to the right of franchising authorities to enforce provisions in franchise agreements regarding the placement and use of leased access channels.

Charlotte-Mecklenburg urges the Federal Communications Commission to adopt the above proposals and the other proposals raised in the Local Governments' comments.

Respectfully Submitted,



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